

1 Adopt 2 Cal. Code Regs. section 18750.2 as follows:

2
3 **18750.2. Procedures for the Promulgation and Adoption of Conflict of Interest Codes for**
4 **State Agencies Exempt from the Administrative Procedures Act**
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6 (a) Unless otherwise modified, the term “exempt agency” as used in this section shall
7 refer to any state agency not subject to, or otherwise exempt from the Administrative Procedures
8 Act. The term “Commission” as used in this section shall refer to the Fair Political Practices
9 Commission.
10

11 (b) An exempt agency proposing adoption of a conflict of interest code or an amendment
12 to an existing code, other than a nonsubstantive amendment, shall follow the procedures
13 described in this section. An exempt agency proposing a nonsubstantive amendment shall
14 follow the procedures described in 2 Cal. Code of Regs. section 18752(a) through (e).
15

16 (c) Every exempt agency which proposes to adopt a conflict of interest code or to amend
17 its existing code shall:

18 (1) Conduct a public hearing or establish a written comment period.

19 (2) Prepare an initial proposed code or an initial proposed amendment.

20 (3) Prepare a notice of intention to adopt a conflict of interest code, or to amend an
21 existing code. This notice shall:

22 (A) Describe the proposed code or amendment in general terms and if the proposed
23 action includes amendments to an existing code, include a concise, clear summary of the
24 provisions of the existing code, if any, which will be affected by the proposed amendments, and
25 a summary of how those provisions will be affected by the proposed amendments;

26 (B) State that copies of the proposed code or amendment are available to interested
27 persons and indicate where the copies may be obtained;

28 (C) Specify the location where written comments concerning the proposed code or
29 amendments may be submitted;

1 (D) Specify the date by which comments submitted in writing relating to the proposed
2 code or amendments must be received in order for them to be considered by the exempt agency
3 before it adopts or amends the code;

4 (E) State the time and place of any public hearing that is scheduled on the proposed code
5 or amendment; or if a public hearing on the proposed code or amendment is not scheduled,
6 include a statement that any interested person or his or her duly authorized representative may
7 request, no later than 15 days prior to the close of the written comment period, a public hearing;

8 (F) State the name and telephone number of an agency officer to whom inquiries
9 concerning the proposed code or amendment may be directed;

10 (G) State that the agency has prepared a written explanation of the reasons for the
11 designations and the disclosure responsibilities, or, in the case of an amendment, that the agency
12 has prepared a written explanation of the reasons for the changes and has available all of the
13 information upon which its proposal is based.

14 (H) If a code is being adopted, include a reference that the authority for the action is
15 Government Code Section 87300. If a code is being amended, include a reference that the
16 authority for the action is Government Code Section 87306. For both the adoption of and
17 amendments to codes, provide a reference to Government Code Sections 87300-87302, and
18 87306;

19 (I) If a public hearing on the proposed code or amendment is not scheduled, state that
20 any interested person or his or her representative may request, no later than 15 days prior to the
21 close of the written comment period, a public hearing;

22 (J) Include a statement that the adoption of the proposed code or amendment will not
23 impose a cost or savings on any state agency, local agency or school district that is required to be
24 reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government
25 Code; will not result in any nondiscretionary cost or savings to local agencies; will not result in
26 any cost or savings in federal funding to the state; will not impose a mandate on local agencies or
27 school districts; and will not have any potential cost impact on private persons or businesses
28 including small businesses;

29 (K) A statement that the adopting agency must determine that no alternative considered

1 by the agency would be more effective in carrying out the purpose for which the action is
2 proposed or would be as effective and less burdensome to affected private persons than the
3 proposed action.

4
5 (4) File a copy of the notice with the Commission at least 45 days before the public
6 hearing or close of the comment period.

7 (5) Provide notice pursuant to the requirements of Government Code section 87311,
8 including providing a copy of the notice to each employee of the exempt agency affected by the
9 proposed code or amendment at least 45 days before the hearing or the close of the comment
10 period by serving the employees individually with a copy of the written notice, by posting the
11 notice on employee bulletin boards, or by publishing the notice in an employee newsletter. In
12 addition, notice must be provided by:

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14 **DECISION POINT 1:**

15 **OPTION A**

16 [(A) Posting the notice on the home page of the agency website.]

17 **OPTION B**

18 [(A) Posting the notice on the home page of the agency website, and]

19 [(B) Publication in major northern California newspaper of general circulation, a major
20 southern California newspaper of general circulation, and a major newspaper with statewide
21 circulation (such as the Wall Street Journal, the Los Angeles Times and the San Francisco
22 Chronicle).]*

23 -----
24 (6) Make the exact terms of the proposed code or amendment available for inspection
25 and copying to interested persons for at least 45 days prior to the public hearing or the close of
26 the comment period.

27 (7) Accept written comments from interested persons through the conclusion of the

* The brackets indicate an option. The Commission may choose any of the terms, all of the terms or may insert different terms.

1 public hearing or the close of the comment period.

2 (8) Conduct a public hearing on the proposed code or amendment, if, at least 15 days
3 prior to the close of the written comment period, an interested party, or his or her duly authorized
4 representative, requests a public hearing. The agency shall to the extent practicable, provide
5 notice of the time, date and place of the hearing by mailing the notice to every person who
6 submitted written comments, or who requested a hearing, on the proposed code or amendment.

7
8 (d) If the procedures set forth in subsection (c) have been followed, a proposed code or
9 amendment, which has been changed or modified from that which was made available to the
10 public, may, without further notice or hearing, be adopted if:

11 (1) The change or modification is nonsubstantial or solely grammatical in nature, or

12 (2) The resulting code or amendment is sufficiently related to the text made available to
13 the public that the public was adequately placed on notice that the code or amendment could
14 result from the original proposal and the full text of the resulting code or amendment has been
15 available to the public for at least 15 days prior to the date on which the agency adopts the code
16 or amendment.

17
18 (e) The exempt agency shall submit three copies of the final proposed code, or of the
19 existing code with the final proposed amendment in strikeout/underline form, to the Commission
20 accompanied by one copy of the following:

21 (1) A code or amendment shall be accompanied by:

22 (A) A declaration by the chief executive officer of the exempt agency declaring that the
23 code specifically enumerates each of the positions within the agency which involve the making
24 or participation in the making of decisions which may foreseeably have a material financial
25 effect on any financial interest and the agency has satisfied the requirements of subsection (c)
26 preliminary to formulation of the code;

27 (B) A summary of any hearing held by the agency with appropriate identification of any
28 areas of controversy and the manner of their resolution;

29 (C) Copies of all written submissions made to the agency regarding the proposed code or

1 amendment, unless the person making the written submission requests its omission;

2 (D) A written explanation of the reasons for the designations and the disclosure
3 responsibilities of officers, employees, members or consultants of the agency. In the case of an
4 amendment, provide a written justification for any changes including all changes in or additions
5 to the designations or disclosure responsibilities;

6 (E) The names and addresses of all persons who participated in any public hearing of the
7 agency on the proposed code or amendment and all persons who requested notice from the
8 agency of the date of the Commission hearing on the adoption of the code or amendments;

9 (F) The most current organizational chart of the agency;

10 (G) Job descriptions for all designated employees or employees newly designated by the
11 amendment.

12 (2) A new conflict of interest code shall also be accompanied by:

13 (A) A copy of the statutory authority under which the agency was created with specific
14 citations to the provisions setting forth the duties and responsibilities of the agency;

15 (B) The identity of the person or body to whom the agency reports;

16 (C) A copy of the last annual or regular report prepared by the agency or submitted by
17 the agency to the person or body to whom the agency reports or, if there is no report, copies of
18 recent minutes of agency meetings;

19 (D) A brief description of the duties and the terms of all consultants working for the
20 agency who are not designated employees

21 (f) When an agency proposes a new conflict of interest code or an amendment to an
22 existing code, the Executive Director of the Commission shall either:

23 (1) Prepare a notice which specifies the establishment of a written comment period;
24 includes a statement that any interested person, or his or her duly authorized representative may
25 request, no later than 15 days prior to the close of the written comment period, a public hearing;
26 specifies the date by which comments submitted in writing must be received in order for them to
27 be considered; includes a clear and concise summary of the proposed action; provides the name
28 and telephone number of the agency officer to whom inquiries concerning the proposed action
29 may be directed and that the text of the proposed code or amendment is available for inspection

1 and copying at the agency and at the Commission offices. This notice shall be sent to the agency
2 and to all persons who have requested notice at least 45 days before the close of the written
3 comment period; or

4 (2) Return the proposed code or amendment to the agency with written recommendations
5 for revision. Any agency which objects to the recommendations for revision may request a full
6 hearing by the Commission pursuant to subsection (h) of this regulation.

7
8 (g) If no hearing is requested as set forth in subsection (f)(1) above, the Executive
9 Director at the end of the 45-day written comment period shall either:

10 (1) Approve the code as submitted; or

11 (2) Return the proposed code or amendment to the agency for revision. Any agency
12 which objects to the recommendations for revision may request a full hearing by the
13 Commission pursuant to subsection (h) of this regulation.

14
15 (h) If a public hearing on this matter has been requested, the Commission shall afford
16 any agency or interested person or his or her duly authorized representative, or both, the
17 opportunity to present statements, arguments or contentions in writing on, or prior to, the date of
18 the hearing. Oral testimony shall be encouraged; however, oral statements may be limited at the
19 discretion of the Chairman. The Commission shall consider all relevant matters presented to it
20 prior to and during the public hearing, or appearing on the record of such hearing prior to taking
21 action on the proposed code or amendment.

22
23 (i) After a full hearing as provided herein above, the Commission shall:

24 (1) Approve the proposed code or amendment as submitted and return the code or
25 amendments to the agency;

26 (2) Revise the proposed code or amendment and approve it as revised; or

27 (3) Direct the Executive Director to return the proposed code or amendment to the
28 agency for revision and resubmission within 60 days.

1 (j) If a code or amendment is approved, the Executive Director shall return a copy of the
2 code or amendment to the agency with notification of approval.

3
4 (k) A conflict of interest code or amendment to a code shall become effective on the
5 thirtieth day following the approval of the code or amendment.

6
7 (l) Each agency's code shall be maintained in the office of the chief executive officer of
8 the agency, who shall make the code available for public inspection and reproduction during
9 regular business hours commencing the effective date of the code. No conditions whatsoever
10 shall be imposed upon persons desiring to inspect the conflict of interest code of the agency, nor
11 shall any information or identification be required from such person. Copies shall be provided at
12 a charge not to exceed ten cents (\$.10) per page.

13
14 (m) The Commission shall maintain copies of each agency's code for public inspection
15 and copying at its offices in Sacramento, California.

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17 Note: Authority: Section 83112, Gov. Code

18 Reference: Sections 87300, 87303, and 87306, Gov. Code
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